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Attorney for Plaintiff
MYOUNG HO LEE

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MYOUNG HO LEE,

Plaintiff,

vs.

TATOUMIK LIMITED, d/b/a
“Mary Katrantzou,”

Defendant.

CASE NO. 4-15-cv-04819

PROOF OF SERVICE

Served on: TATOUMIK LIMITED, d/b/a
“Mary Katrantzou”

Plaintiff Myoung Ho Lee (“Lee”), hereby, by counsel, submits as follows:

Pursuant to Federal Rule of Civil Procedure 4(f)(1) the summons in the said action and all other documents specified in “Order Setting Initial Case Management Conference and Deadlines” dated October 20, 2015, were served on TATOUMIK LIMITED, d/b/a “Mary Katrantzou” (“Defendant”) in accordance with the requirements of “Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters.”

Pursuant to Federal Rule of Civil Procedure 4(l)(2)(A) the Certificate

1 of Service is attached.

2
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4 Dated: April 12, 2016

Respectfully submitted,

COMAR LAW

5
6 By /s/ Inder Comar
7 D. Inder Comar
8 Attorney for Plaintiff
9 MYOUNG HO LEE
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ATTACHMENT

SFP: 2016-971

Ref:

CERTIFICATE - ATTESTATION

The undersigned authority has the honour to certify, in conformity with article 6 of the Convention
L'autorite soussignée a l'honneur d'attester conformement a l'article 6 de ladite Convention.

1) that the document has been served the (date) 26 February 2016
que le demande a ete executee le (date)

-at (place, street, number) TATOUMIK LTD
-a (localite, rue, numero) Unit 6b, Canonbury Business Center, 190a New North Road,
London,
N1 7BJ

- in one of the following methods authorised by article 5:

-dans une des formes suivantes prevues a l'article 5:

a) in accordance with the provisions of sub-paragraph (a) of the first paragraph of article 5 of the convention

selon les formes legales (article 5, alinea premier, lettre a)

b) in accordance with the following particular method **Documents were served by leaving at reception on the company's registered address given.**
selon la forme particuliere suivante

c) by delivery to the addressee, who accepted it voluntarily
par remise simple

The documents referred to in the request have been delivered to:

Les documents mentionnes dans la demande ont ete remis a:

- (identity and description of person)

- (identite et qualite de la personne)

- relationship to the addressee (family, business or other)

- liens de parente de subordination ou autres avec

le desinataire de l'acts

2) that the document has not been served, by reason of the following facts:
que la demande n'a pas ete executee, en raison des faits suivants:

in conformity with the second paragraph of article 12 of the Convention, the applicant is requested to pay the expenses details in the attached statement.

Conformement a l'article 12, alinea 2 de ladite Convention, le requerant est prie de payer ou de rembourser les frais dont le detail figure au memoire ci-joint

Annexes

Documents returned

Pieces renvoyees

in appropriate cases, documents
establishing the service:

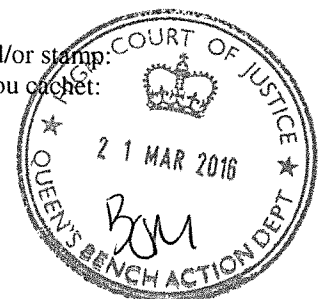
le cas echeant, les documents

justicatifs de l'execution:

Done at London
fait a

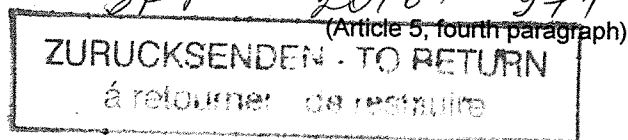
the 21 March, 2016
le

Signature and/or stamp:
Signature et/ou cachet:



SUMMARY OF THE DOCUMENT TO BE SERVED

Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters,
signed at The Hague, the 15th of November 1965



Identité et adresse du destinataire / Identity and address of the addressee / -----:

TATOUMIK LIMITED, d/b/a "Mary Katrantzou" Unit 6b, 190A New North Rd, London N1 7BJ, United Kingdom Telephone: 44 20 7704 8809
--

IMPORTANT

LE DOCUMENT CI-JOINT EST DE NATURE JURIDIQUE ET PEUT AFFECTER VOS DROITS ET OBLIGATIONS. LES «ELEMENTS ESSENTIELS DE L'ACTE» VOUS DONNENT QUELQUES INFORMATIONS SUR SA NATURE ET SON OBJET. IL EST TOUTEFOIS INDISPENSABLE DE LIRE ATTENTIVEMENT LE TEXTE MEME DU DOCUMENT. IL PEUT ETRE NECESSAIRE DE DEMANDER UN AVIS JURIDIQUE.

SI VOS RESSOURCES SONT INSUFFISANTES, RENSEIGNEZ-VOUS SUR LA POSSIBILITE D'OBTENIR L'ASSISTANCE JUDICIAIRE ET LA CONSULTATION JURIDIQUE SOIT DANS VOTRE PAYS SOIT DANS LE PAYS D'ORIGINE DU DOCUMENT.

LES DEMANDES DE RENSEIGNEMENTS SUR LES POSSIBILITES D'OBTENIR L'ASSISTANCE JUDICIAIRE OU LA CONSULTATION JURIDIQUE DANS LE PAYS D'ORIGINE PEUVENT ETRE ADRESSEES A :

IMPORTANT

THE ENCLOSED DOCUMENT IS OF A LEGAL NATURE AND MAY AFFECT YOUR RIGHTS AND OBLIGATIONS. THE 'SUMMARY OF THE DOCUMENT TO BE SERVED' WILL GIVE YOU SOME INFORMATION ABOUT ITS NATURE AND PURPOSE. YOU SHOULD HOWEVER READ THE DOCUMENT ITSELF CAREFULLY. IT MAY BE NECESSARY TO SEEK LEGAL ADVICE.

IF YOUR FINANCIAL RESOURCES ARE INSUFFICIENT YOU SHOULD SEEK INFORMATION ON THE POSSIBILITY OF OBTAINING LEGAL AID OR ADVICE EITHER IN THE COUNTRY WHERE YOU LIVE OR IN THE COUNTRY WHERE THE DOCUMENT WAS ISSUED.

ENQUIRIES ABOUT THE AVAILABILITY OF LEGAL AID OR ADVICE IN THE COUNTRY WHERE THE DOCUMENT WAS ISSUED MAY BE DIRECTED TO:

Il est recommandé que les mentions imprimées dans cette note soient rédigées en langue française et en langue anglaise et le cas échéant, en outre, dans la langue ou l'une des langues officielles de l'Etat d'origine de l'acte. Les blancs pourraient être remplis soit dans la langue de l'Etat où le document doit être adressé, soit en langue française, soit en langue anglaise.

It is recommended that the standard terms in the notice be written in English and French and where appropriate also in the official language, or one of the official languages of the State in which the document originated. The blanks could be completed either in the language of the State to which the documents is to be sent, or in English or French.

Name and address of the requesting authority:

Pursuant to Federal Rules of Civil Procedure for the United States District Courts, Rule 4(c)(2), the requesting authority is the attorney for Plaintiff: D. INDER COMAR (SBN 243732)
Address: 995 Market Street, 2nd Floor, San Francisco, CA 94103, United States

Particulars of the parties: *

Plaintiff: Myoung Ho Lee. Address: 9-911, 16-4, Jahamun-ro 36 gil, Jongno-gu, Seoul, 03046, Republic of Korea. Attorney for Plaintiff: D. INDER COMAR. Addr.: 995 Market Street, 2nd Floor, San Francisco, CA 94103, United States. Defendant: TATOUMIK LIMITED, d/b/a "Mary Katrantzou." Address: Unit 6b, 190A New North Rd, London N1 7BJ, United Kingdom Telephone: 44 20 7704 8809

JUDICIAL DOCUMENT **

Nature and purpose of the document:

See Attachment 2.

Nature and purpose of the proceeding and, where appropriate, the amount in dispute:

Civil action for copyright infringement under the copyright laws of the United States (Title 17 of the U.S. Code) and unfair competition under the laws of the United States (Title 15 of the U.S. Code).

Date and place for entering appearance: **

01/19/2016, at R. Dellums Federal Building 1301 Clay St. Oakland, CA 94612

Court which has given judgment: **

Date of judgment: **

Time limits stated in the document: **

EXTRAJUDICIAL DOCUMENT **

Nature and purpose of the document:

Time limits stated in the document: **

ATTACHMENT 1 TO THE REQUEST FOR SERVICE ABROAD OF JUDICIAL OR
EXTRAJUDICIAL DOCUMENTS

List of documents:

1. Civil Complaint initiating a civil action No. 15-cv-04819-KAW
2. Summons in the above civil action
3. Order setting initial case management conference and ADR deadlines
4. Standing Order for all judges of the northern district of California
5. Magistrate Judge Westmore's General standing order
6. Magistrate Judge Westmore's Settlement Conference standing order
7. Magistrate Judge Westmore's procedures for telephonic appearances
8. Magistrate Judge Westmore's trial exhibit tag sample
9. Notice of Assignment of Case to a United States Magistrate Judge for Trial
10. Form allowing a party to consent to assignment of the case to a Magistrate Judge
11. Case Management Statement and Proposed order
12. "Consenting To A Magistrate Judge's Jurisdiction In The Northern District Of California" brochure.

ATTACHMENT 2 TO THE REQUEST FOR SERVICE ABROAD OF JUDICIAL OR
EXTRAJUDICIAL DOCUMENTS

Nature and Purpose of the documents:

1. Civil Complaint initiating a civil action No. 15-cv-04819-KAW in the United States district court notifying the defendant of the nature of the claim and plaintiff's demand for relief.
2. Summons in the above civil action notifying the defendant of its obligation to respond to the complaint within 21 days of service.
3. Order setting initial case management conference and ADR deadlines
4. Standing Order for all judges of the northern district of California
5. Magistrate Judge Westmore's General standing order
6. Magistrate Judge Westmore's Settlement Conference standing order
7. Magistrate Judge Westmore's procedures for telephonic appearances
8. Magistrate Judge Westmore's trial exhibit tag sample
9. Notice of Assignment of Case to a United States Magistrate Judge for Trial
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11. Case Management Statement and Proposed order
12. "Consenting To A Magistrate Judge's Jurisdiction In The Northern District Of California" brochure.

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Attorney for Plaintiff
MYOUNG HO LEE

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MYOUNG HO LEE,

Plaintiff,

vs.

TATOUMIK LIMITED, d/b/a
"Mary Katrantzou,"

Defendant.

CASE NO.

**COMPLAINT FOR COPYRIGHT
INFRINGEMENT AND FEDERAL
UNFAIR COMPETITION UNDER
THE LANHAM ACT**

DEMAND FOR JURY TRIAL

1 Plaintiff Myoung Ho Lee ("Lee"), by counsel, complains of
2 TATOUMIK LIMITED, d/b/a "Mary Katrantzou" ("Defendant") as follows:

3 **NATURE OF THIS ACTION**

4 1. This is a suit for copyright infringement under the copyright
5 laws of the United States (Title 17 of the United States Code) and unfair
6 competition under the laws of the United States (Title 15 of the United States
7 Code).

8 **PARTIES AND PATENTS**

9 2. Plaintiff Myoung Ho Lee is a world famous Korean
10 photographer who is known for his photography regarding landscapes and trees in
11 South Korea.

12 3. Lee and his photographs – including the photograph at issue
13 here – were profiled in the New York Times on May 3, 2013. *See*
14 [http://www.nytimes.com/interactive/2013/05/12/t-](http://www.nytimes.com/interactive/2013/05/12/t-magazine/12document.html?_r=0)
15 [magazine/12document.html?_r=0](http://www.nytimes.com/interactive/2013/05/12/t-magazine/12document.html?_r=0). Lee has a United States copyright for the image
16 "Tree... #3" with U.S. Copyright Registration No. VA0001968065.



26 *Tree... #3*

27 4. Lee is one of the most well known of Korea's photographers.
28

1 Lee's photographs have been often purchased by or displayed in many museums,
2 galleries and corporations around the world including the J. Paul Getty Museum in
3 Los Angeles, the Kiyosato Museum of Photographic Art in Japan, Air France in
4 Paris, BES (Banco Espirito Santo) in Lisbon, the Progressive Insurance
5 Corporation in Cleveland, the Fidelity Investment Group in New York, and the
6 Statoil Art Collection in Oslo. Lee's artwork has been well known in the global art
7 industry through numerous exhibitions and other various media exposure in the
8 U.S., France and other European countries.

9 5. On information and belief, Defendant is a limited company
10 organized under the laws of England. Defendant does business in this judicial
11 district under the name "Mary Katrantzou" and sells good in this judicial district at
12 <https://www.marykatrantzou.com>.

13 **JURISDICTION AND VENUE**

14 6. This Court has exclusive, subject matter and supplemental
15 jurisdiction under 28 U.S.C. § 1338(a) (original jurisdiction over copyrights and
16 trademarks; no state court jurisdiction over copyright actions).

17 7. Venue is proper in this judicial district under 28 U.S.C. §§
18 1391(b) and (c) because Defendant transacts business within this district and offer
19 for sale in this district products that infringe Lee's copyrights.

20 **INTRADISTRICT ASSIGNMENT**

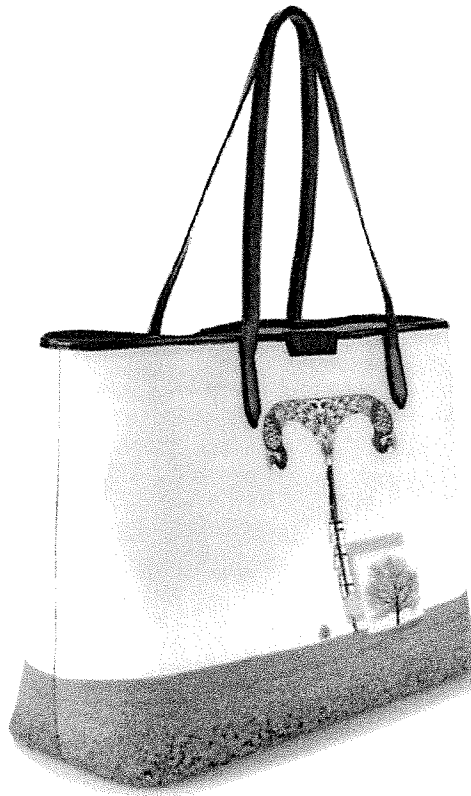
21 8. This is an Intellectual Property Action to be assigned on a
22 district-wide basis pursuant to Civil Local Rule 3-2(c).

1 **INFRINGEMENT OF LEE'S WORKS**

2 9. Defendant has not had permission from Lee, and has not
3 compensated Lee, for goods that are currently sold on Defendant's websites that
4 are clear derivative images of images created by Lee, and that are protected by
5 U.S. Copyright Registration No. VA0001968065.

6 10. Screenshots of these derivative images on Defendant's website
7 and third party websites that are selling Defendants' goods are attached to this
8 Complaint, all of which were still on display as of the time of the filing of this
9 Complaint.

10 *Image of Mary Katrantzou bag being sold on "matchesfashion.com"*¹



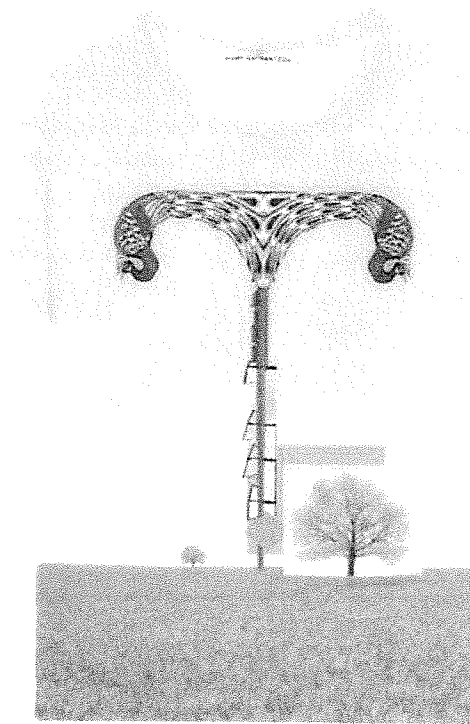
27
28

¹ <http://www.matchesfashion.com/products/Mary-Katrantzou-T-Melina-coated-canvas-tote-1014222>



Image of Mary Katrantzou bag on “matchesfashion.com”

Image of tshirt on Mary Katrantzou website²



² <https://www.marykatrantzou.com/shop/marys-a-to-z/t-for-tree-t-shirt?search=true>

CLAIMS FOR RELIEF

COUNT I

(Copyright Infringement against all Defendants)

(17 U.S.C. § 501, *et seq.*)

11. Lee incorporates by reference and realleges the allegations set forth in paragraphs 1 through 10 above.

12. At all times relevant hereto, Lee has been the author and owner of the works reproduced, distributed, displayed and subject to derivative creations by Defendant. These reproductions, distributions and displays can be found, without limitation, at <https://www.marykatrantzou.com/>.

13. Lee owes a valid copyright to the derivative works now displayed on Defendants' website and attached hereto as Exhibit A, specifically, U.S. Copyright Registration No. VA0001968065. Without authorization, Defendant has created derivative works of these original, creative works protected by this U.S. Copyright Registration Number, reproducing and displaying the derivative works, and are thus infringing the copyright.

14. The image protected by U.S. Copyright Registration No. VA0001968065 has protectable elements under U.S. copyright law that have been infringed by Defendant.

15. Defendant knew that it had not paid for use of Lee's copyrights, knew it did not have permission to exploit Lee's works or to create derivatives therefrom, and knew its acts constituted copyright infringement. Defendant's conduct was and is willful within the meaning of the Copyright Act.

16. As a result of their conduct, Defendant is liable to Lee for copyright infringement pursuant to 17 U.S.C. § 501.

17. Lee has been and will continue to be irreparably harmed and

1 damaged by Defendant's conduct, and Lee lacks an adequate remedy at law to
2 compensate for this harm and damage.

3 18. Lee is entitled to recover damages, which include its losses and
4 any and all profits Defendants have made as a result of its wrongful conduct,
5 pursuant to 17 U.S.C. § 504.

6 **COUNT II**

7 **(False Designation of Origin Under Lanham Act against Defendant)**

8 **Lanham Act Section 43(a), 15 U.S.C. § 1125(a))**

9 19. Lee incorporates by reference and realleges the allegations set
10 forth in paragraphs 1 through 18 above.

11 20. Defendants' use of a derivative image of "Tree... #3" to
12 promote, market or sell its services constitutes false designation of origin pursuant
13 to 15 U.S.C. § 1125(a). Defendant's use of Tree... #3 is likely to cause confusion,
14 mistake and deception amongst consumers in that it implies that Lee has given
15 approval to Defendant to use the image, or that Lee is otherwise associated or
16 affiliated with Defendant.

17 21. Because Defendant used a derivative image of Tree... #3
18 without properly paying for any license, and despite knowledge that they had no
19 ownership over Tree... #3 or any permission to use it, Defendant's infringement
20 has been and continues to be intentional and willful.

21 22. Lee has been and will continue to be irreparably harmed and
22 damaged by Defendant's conduct, and Lee lacks an adequate remedy at law to
23 compensate for this harm and damage.

24 23. Lee is informed and believes, and on that basis alleges, that
25 Defendant has gained profits by virtue of its infringement of Lee's intellectual
26 property and copyright.

27 24. Lee has also sustained damages as a direct and proximate result
28 of Defendants' conduct in an amount to be proven at trial.

25. Because Defendant's actions have been willful, Lee is entitled to treble its actual damages or Defendant's profits, whichever is greater, and to an award of costs, and, this being an exceptional case, reasonable attorneys' fees pursuant to 15 U.S.C. § 1117(a).

PRAYER FOR RELIEF

WHEREFORE, Lee asks this Court to enter judgment against Defendant and against each of Defendant's respective subsidiaries, affiliates, agents, servants, employees and all persons in active concert or participation with it, granting the following relief:

1. A judgment that Defendant has infringed one or more of Lee's copyrights;

2. An order and judgment preliminary and permanently enjoining Defendant and its officers, directors, agents, servants, employees, affiliates, attorneys and all others acting in privity or in concert with them, and their parents, subsidiaries, divisions, successors and assigns, from further acts of infringement of Lee's copyrights;

3. A judgment awarding Lee all damages adequate to compensate for Defendant's infringement of Lee's copyrights;

4. A judgment awarding Lee Defendant's profits that have been made as a result of Defendant's wrongful conduct;

5. A judgment that Defendant has engaged in false designation of origin and violated Lee's rights under 15 U.S.C. § 1125(a);

6. That Defendant and its agents, officers, employees, representatives, successors, assigns, attorneys and all other persons acting for, with, by through or under authority from them, and each of them, be preliminarily and permanently enjoined from: (a) using Lee's copyrights; or (b) selling any goods or services that imitate or are confusingly similar to or in anyway similar to

10. Any other remedy to which Lee may be entitled under applicable law.

By /s/ Inder Comar
D. Inder Comar
Attorney for Plaintiff
MYOUNG HO LEE

Signature of Clerk or Deputy Clerk

AO 440 (Rev. 06/12) Summons in a Civil Action (Page 2)

Civil Action No. 15-cv-04819-KAW

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* _____
 was received by me on *(date)* _____.

☐ I personally served the summons on the individual at *(place)* _____
 _____ on *(date)* _____; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
 _____, a person of suitable age and discretion who resides there,
 on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is
 designated by law to accept service of process on behalf of *(name of organization)* _____
 _____ on *(date)* _____; or

☐ I returned the summons unexecuted because _____; or

☐ Other *(specify)*:

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MYOUNG HO LEE,

Plaintiff,

v.

TATOUMIK LIMITED,

Defendant.

Case No. 15-cv-04819-KAW

**ORDER SETTING INITIAL CASE
MANAGEMENT CONFERENCE
AND ADR DEADLINES**

IT IS HEREBY ORDERED that this action is assigned to the Honorable Kandis A. Westmore . When serving the complaint or notice of removal, the plaintiff or removing defendant must serve on all other parties a copy of this order, the Notice of Assignment of Case to a United States Magistrate Judge for Trial, and all other documents specified in Civil Local Rule 4-2. Plaintiffs or removing parties must file a consent or declination to proceed before a magistrate judge within 14 days of the filing of the complaint or the removal. All other parties must file a consent or declination within 14 days of appearing in the case. All parties who have made an appearance must file a consent or declination within 7 days of the filing of a dispositive motion or the case will be reassigned to a district court judge. Counsel must comply with the case schedule listed below unless the Court otherwise orders.

IT IS FURTHER ORDERED that this action is assigned to the Alternative Dispute Resolution (ADR) Multi-Option Program governed by ADR Local Rule 3. Counsel and clients shall familiarize themselves with that rule and with the material entitled "Dispute Resolution Procedures in the Northern District of California" on the Court ADR Internet site at <http://www.cand.uscourts.gov/adr>. A limited number of printed copies are available from the Clerk's Office for parties in cases not subject to the court's Electronic Case Filing program (ECF).

IT IS FURTHER ORDERED that plaintiff or removing defendant serve upon all parties

the brochure entitled "Consenting To A Magistrate Judge's Jurisdiction In The Northern District Of California", additional copies of which can be downloaded from the court's Internet website: <http://www.cand.uscourts.gov>.

CASE SCHEDULE – ADR MULTI-OPTION PROGRAM		
Date	Event	Governing Rule
10/19/2015	Complaint Filed	
12/29/2015	*Last day to: • meet and confer re: initial disclosures, early settlement, ADR process selection, and discovery plan	<u>FRCivP 26(f) & ADR L.R.3-5</u>
	• file ADR Certification signed by Parties and Counsel (form available at http://www.cand.uscourts.gov)	<u>Civil L.R. 16-8(b) & ADR L.R. 3-5(b)</u>
	• file either Stipulation to ADR Process or Notice of Need for ADR Phone Conference http://www.adr.cand.uscourts.gov (form available at http://www.cand.uscourts.gov)	<u>Civil L.R. 16-8(c) & ADR L.R. 3-5(b)</u>
1/12/2016	Last day to file Rule 26(f) Report, complete initial disclosures or state objection in Rule 26(f) Report and file Case Management Statement per Standing Order re Contents of Joint Case Management Statement (also available at http://www.cand.uscourts.gov)	<u>FRCivP 26(a) (1) Civil L.R. 16-9</u>
1/19/2016	INITIAL CASE MANAGEMENT CONFERENCE (CMC) at 1:30 PM in: Ronald Dellums Federal Building 1301 Clay Street Oakland, CA 94612	<u>Civil L.R. 16-10</u>

* If the Initial Case Management Conference is continued, the other deadlines are continued accordingly.